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W-01303A-09-0343

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ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

Investigator: Jenny Gomez

Phone: (

Fax:

Priority: Respond Within Five Days

Opinion No. 2011 - 94288

Date: 4/6/2011

Complaint Description: 08A Rate Case Items - Opposed
N/A Not Applicable

First:

Last:

Complaint By: Lynn

Vick

Account Name: Lynn Vick

Home: (000) 000-0000

Street:

Work:

Arizona Corporation Commission

City: Phoenix

CBR:

DOCKETED

State: AZ Zip: 85086

is: E-Mail

APR - 8 2011

Utility Company: Arizona - American Water Company

Division: Water

Contact Name:

Contact Phone:

DOCKETED BY

[Signature]

Nature of Complaint:

From:

Sent: Saturday, April 02, 2011 11:13 AM

To: Pierce-Web

Cc: Newman-Web; Burns-Web; Kennedy-Web; Stump-Web; Utilities Div - Mailbox; Director Jodi Jerich, Esq;
Seel, Representative Carl; Klein, Senator Lori; Reeve, Representative Amanda

Subject: Re: Anthem Water Rate Meeting - March 22, 2011 - Docket No. W-01303A-09-0343

Dear Chairman Pierce,

Please let me know when you plan to respond to the email provided below which was originally sent to you on March 25, 2011.

There is a partial response to item number 7 of my original email provided below in the "Compliance to a Decision" filed by Craig A. Marks, Attorney for Arizona-American Water Company on April 1, 2011 in Docket No. W-01303A-09-0343 pertaining to the deconsolidation of the Anthem/Aqua Fria Wastewater District. That document refers to several prior decisions by the ACC as follows.

Decision No. 60975 dated June 19, 1998
Decision No. 63445 dated March 13, 2001
Decision No. 64307 dated December 28, 2001
Decision No. 64746 dated April 17, 2002
Decision No. 65757 dated March 20, 2003
Decision No. 67093 dated June 30, 2004
Decision No. 68854 dated June 28, 2006
Decision No. 70372 dated June 13, 2008
Decision No. 72047 dated January 6, 2011

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It appears to me that all of the decisions prior to June 30, 2004 and decision no. 68854 dated June 28, 2006 were merely extensions of the Certificates of Convenience and Necessity (CC&N) requested by the water utility company and/or developers. It seems to me that those requests were routinely "rubber stamped" by the ACC without any comment or input from the Anthem residents. Those extensions became de facto "consolidation." There was no specific approval by the ACC for any "consolidation" of the Anthem Wastewater District with the Aqua Fria Wastewater District. It just kind of evolved by those extensions of the CC&N. It appears to me that the ACC gave the water utility company and/or the developers whatever they wanted without regard for the impact on the Anthem residents. Those extensions of the CC&N and the de facto "consolidation" resulted in the Anthem residents paying for goods and services which they never received and could never receive because there is no interconnection of pipelines between the two water districts and none was ever planned. It seems to me that deconsolidation should be approved ASAP and the Anthem residents should be due a refund for any overpayments made for their wastewater in prior years.

Pulte controlled the Anthem Community Council and its representative interveners for any and all discussions leading up to decision no. 67093 dated June 30, 2004 and decision No. 70372 dated June 13, 2008. The Anthem residents had no "on the record" voice or representation (representative intervener) at those hearings.

The Anthem residents were very much involved in the latest water rate case because Pulte no longer controlled the Anthem Community Council and its representative interveners. That case led to decision no. 72047 dated January 6, 2011, including the consideration for the deconsolidation of the Anthem/Aqua Fria Wastewater District.

Sincerely,

Lynn Vick

----- Original Message -----

From:

To: Chairman Gary Pierce

Cc: Commissioner Paul Newman ; Commissioner Brenda Burns ; Commissioner Sandra Kennedy ; Commissioner Bob Stump ; Commission ; Director Jodi Jerich, Esq ; Seel, Representative Carl ; Klein, Senator Lori ; Reeve, Representative Amanda

Sent: Friday, March 25, 2011 12:59 PM

Subject: Anthem Water Rate Meeting - March 22, 2011

Dear Chairman Pierce,

Thank you very much for taking the time to meet with the Anthem residents at 6:30 PM on Tuesday, March 22, 2011. I would also like to thank Representative Carl Seel and Senator Lori Klein for attending that meeting.

I sincerely appreciate your willingness to respond to questions which were submitted to you in writing before the meeting and also your acceptance of additional verbal questions from others in attendance. I would like to follow-up by providing the following information and questions.

(1) There is currently a class action in process, "Drew v. PulteGroup, Inc.," brought by Kasden Simonds Weber & Vaughn LLP, attorneys at law. Hypothetically speaking, one of the alternative settlements may be for Pulte to refund funds to Arizona American Water Corporation (AAWC). Should this kind of settlement occur before the sale of AAWC to EPCOR, I would assume that the Arizona Corporation Commission (ACC) would immediately take steps to lower the water rates for Anthem. My question is: What would be the procedure if this kind of

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settlement occurs after the sale of AAWC to EPCOR?

(2) You commented at the meeting that the Anthem residents were much more involved in the most recent water rate case than they were in any of the previous rate cases. There is a very strong reason for that. Pulte controlled the Anthem Community Council and its representative interveners in all of the prior Anthem water rate cases, so the Anthem residents had no voice in the rate cases prior to the most recent one.

(3) One of the questions pertained to the apparent "double dipping" brought about by (A) the cost of the infrastructure being included in the price of the lots paid to Pulte, and (B) AAWC balloon payments to Pulte totaling approximately \$53,000,000. We inquired as to why the ACC did not pursue this matter with Pulte. Your response was that the ACC has no jurisdiction over Pulte. It seems to me that the ACC does have the responsibility to verify that all costs incurred by AAWC and included in the rate base are reasonable and prudent. This does not appear to have happened regarding the balloon payments totaling about \$53,000,000. From my research, it appears that the ACC erred by not making a decision on this unusual financial arrangement back in the late 1990's when it was first presented to them, and they were reluctant to aggressively pursue the matter at any of the rate cases thereafter. At the most recent rate case, one of the Commissioners commented that criminal fraud might be involved; however, even after that comment the Commissioners declined to pursue the matter. As previously mentioned, the Anthem residents could not aggressively pursue this matter prior to the most recent rate case because Pulte controlled the Anthem Community Council and their representative interveners at all of the prior rate cases.

(4) I thought that one of the major purposes of the Arizona Corporation Commission is to protect consumers from large corporate greed by setting fair and reasonable utility rates. This, in my opinion, has not been the case for the residents of Anthem. Based on documentation which was provided to the Commission in the latest water rate case, the Anthem residents believe they are being "swindled" out of approximately \$53 million by the double payment to both the AAWC (in increased rates) and Pulte/Del Webb (in the original purchase price of the homes). If the regulators are not there to protect the consumers from the corporate greed of major corporations, who will protect the consumers?

(5) It is my understanding that the Commissioners can consider only what is "on the record" when making their decisions. What is considered to be "on the record?" More specifically, are the public comments considered to be "on the record?" If public comments are considered to be "on the record," why didn't the Commissioners give more consideration to the rate of return documentation submitted by an Anthem resident during the last water rate case? If public comments are not considered to be "on the record," what is the purpose of the public comments?

(6) I still don't understand how the balloon payments from AAWC to Pulte which totaled approximately \$53 million were not considered as "evidence of indebtedness" by the ACC.

(7) On another matter which was not specifically discussed at the meeting, it is my understanding that there have been several inquiries asking for documentation supporting the ACC's specific approval for the consolidation of the Anthem/Aqua Fria wastewater district. To the best of my knowledge, no one has been able to provide that documentation. If the ACC did not specifically approve the consolidation of the Anthem/Aqua Fria wastewater district, it seems to me that the Anthem residents should be due a refund for any overpayments made for their wastewater.

Thanks again, Chairman Pierce, for responding to our questions at the meeting on March 22, 2011. I look forward to your comments regarding the items mentioned above and to your return visit in September/October this year.

Sincerely,

Lynn Vick

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End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

Opinion noted and filed in Docket Control in Docket No. SW-01303A-09-0343 & W-01303A-09-0343. Closed

End of Comments

Date Completed: 4/6/2011

Opinion No. 2011 - 94288
